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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/384,468	08/27/1999	JERRY IGGULDEN	D00607/70007.US NPF	7882

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EXAMINER	
TRAN, THAI Q	
ART UNIT	**PAPER NUMBER**
2615	10

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/384,468	IGGULDEN ET AL.	
	Examiner	Art Unit	
	Thai Tran	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *40 and 41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *40 and 41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 40-41 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2 and 9 of U.S. Patent No. 5,333,091. Although the conflicting claims are not identical, they are not patentably distinct from each other because

Regarding claim 40 of this application, claim 9 of U.S. Patent No. 5,333,091 recites a method of cueing a recorded video program to a desired segment comprising:

detecting events in the video program (monitoring the video signal as it is recorded to detect events therein of claim 9 of U.S. Patent No. 5,333,091);

storing data representative of a time of occurrence of each event (storing data representative of a time of occurrence of each detected event of claim 9 of U.S. Patent No. 5,333,091);

analyzing temporal spacing of the events to classify segments of the video program between events as belonging to one of a first and second category (analyzing the data, after the video program has been recorded, to classify intervals of the video signal as being one of a first type for normal play back and a second type to be scanned past during playback of claim 9 of U.S. Patent No. 5,333,091); and

cueing the video program to an event located at a beginning of a next segment classified as belonging to the second category (rapidly advancing playback of the recording medium through said next interval of the video signal to be scanned past of claim 9 of U.S. Patent No. 5,333,091). However, claim 9 of U.S. Patent No. 5,333,091 does not specifically recite the claimed each of said events being at least one of a flat frame, a silent frame and a cut.

Claim 2 of U.S. Patent No. 5,333,091 additionally recites that the event markers comprise blank frames.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate claim 2 of U.S. Patent No. 5,333,091 into claim 9 of U.S. Patent No. 5,333,091 in order to detect commercials within video program and to skip commercials during playing back of the video program.

Apparatus claim 41 of this application is rejected for the same reasons as discussed in the corresponding method claim 40 of this application and furthermore, it

would have been obvious to one of ordinary skill in the art to recognize that the apparatus of claim 41 of this application can be used to practice the process claims 2 and 9 of U.S. Patent No. 5,333,091.

4. Claims 40-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 10 of U.S. Patent No. 5,987,210 in view of claim 2 of U.S. Patent No. 5,333,091.

Regarding claim 40 of this application, claim 10 of U.S. Patent No. 5,987,210 recites a method of cueing a recorded video program to a desired segment comprising:

detecting events in the video program (monitoring the video signal as it is recorded to automatically detect events therein as the video signal is recorded, each of said events occurring within viewable lines of a video frame of claim 10 of U.S. Patent No. 5,987,210);

storing data representative of a time of occurrence of each event (storing data representative of a time of occurrence of each event of claim 10 of U.S. Patent No. 5,987,210);

analyzing temporal spacing of the events to classify segments of the video program between events as belonging to one of a first and second category (analyzing the data to classify segments of the video signal between events as one of a first and second category of claim 10 of U.S. Patent No. 5,987,210); and

cueing the video program to an event located at a beginning of a next segment classified as belonging to the second category (positioning the recording medium to beginning and ending positions of each segment of the video signal classified as the

second category of claim 10 of U.S. Patent No. 5,987,210). However, claim 10 of U.S. Patent No. 5,987,210 does not specifically recite the claimed each of said events being at least one of a flat frame, a silent frame and a cut.

Claim 2 of U.S. Patent No. 5,333,091 additionally recites that the event markers comprise blank frames.

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate claim 2 of U.S. Patent No. 5,333,091 into claim 10 of U.S. Patent No. 5,987,210 in order to detect commercials within video program and to skip commercials during playing back of the video program.

Apparatus claim 41 of this application is rejected for the same reasons as discussed in the corresponding method claim 40 of this application and, furthermore, it would have been obvious to one of ordinary skill in the art to recognize that the apparatus of claim 41 of this application can be used to practice the process claim 10 of U.S. Patent No. 5,987,210 and claim 2 of U.S. Patent No. 5,333,091.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai Tran whose telephone number is (703) 305-4725. The examiner can normally be reached on Mon. to Friday, 8:00 AM to 5:30 PM.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

TTQ